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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,621	07/25/2001	Seisaku Iwasa	IS-US000501	3456

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EXAMINER

STASHICK, ANTHONY D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/911,621

Applicant(s)

IWASA ET AL.

Examiner

Anthony D Stashick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 7-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7,9-24 and 26-32 is/are rejected.
- 7) ☒ Claim(s) 8 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-3, 5, 7, 9-10, 12-24 and 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna 5,893,260 in view of Reichental et al. 5,794,406. McKenna '260 discloses substantially all the limitations as claimed including the following: a vertical form-fill-seal packaging machine forming bags out of tubular packaging material (see Figure 5); a first transfer unit 73 for receiving separated bags that have been previously separated and are supplied to the first transfer unit by being dropped thereto in a first direction such that the bags contact the first transfer unit after the bags are separated (see col. 5, lines 63-65, the bags are separated then dropped to the conveyor belt); the first transfer unit transferring the separated bags to the downstream device by carrying the separated bags in a second direction (see Figure 5, 73 is

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diagonally downward which is different than vertical)); the second direction being not parallel to the first direction (see Figure 5); a first drive unit for driving the first transfer unit (wheels driving belt 73 in Figure 5); the first transfer unit being a belt 73; the belt is inclined so that the bags move diagonally downward (see Figure 5, diagonally down and to the right); forming means 30 for forming the packaging material received from a supply unit into a tubular shape; pull-down means 50 for transferring the tubular-shaped packaging material downward; vertical sealing 31 means for vertically sealing an overlapped part of the tubular-shaped packaging material; transverse sealing means 31 for transversely sealing the tubular-shaped packaging material to form the bags; separating means 31 for separating and ejecting each of the bags. McKenna '260 does not specifically disclose the control means and the second transfer means as well as the first transfer means being made of two belts separated by an adjustable distance.

Reichental et al. '406 teaches that the transfer means of a transfer unit can be controlled by appropriate hardware and software (see col. 7, line 66-col. 8, line 7) which can memorize and control the speed of the bags during transfer as well as well as controlling the settings stored in the memory of the computer used, including intervals of the bags ejected and speed

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of the first drive. Therefore, it would have been obvious, in view of Reichental et al. '406, to control the speed and ejection of the bags, as taught by Reichental et al. '406, to allow for optimum performance of the system without piling bags on top the other. Reichental et al. '406 further teaches that the first transfer unit can be multiple belts located one across from the other whose distance between the two belts can be controlled to determine the thickness of the bag after expansion. Therefore, it would also have been obvious to make the first transfer unit of McKenna '260 with two belts, as taught by Reichental et al. '406, to allow for control of the thickness of the bag while being transferred. Reichental et al. '406 still further teaches the use of multiple transfer units controlled by hardware and software to allow for swift controlled transfer of the completed bags in an orderly fashion. Therefore, it would have been obvious to use multiple conveyors and controls to control the speed of the bags to prevent back up in the line and to maximize production.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 24 above in view of Mabry 4,719,741. The references as applied to claim 24 above disclose all the limitations of the claim except for the

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machine including a cooling unit for spraying cool gas on the sealed part of each of the bags sandwiched between the belts. Mabry '741 teaches that after heat-sealing the bags in a form-fill-seal machine, a cool spray can be applied to the seal to cool the seal to increase strength and reduce likelihood of leakage or total failure of the seal (see col. 4, lines 30-53). Therefore, it would have been obvious to place a cooling spray, such as that taught in Mabry '741, in the machine of the references as applied to claim 24 above, to cool the seal, increase the seal strength and reduce the likelihood of leakage or total failure of the seal.

#### ***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Stashick whose telephone number is 703-308-3876. The examiner

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can normally be reached on Monday through Thursday 8:00 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Informal Fax for 3728	(703) 308-7769

If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	<a href="http://www.uspto.gov/">http://www.uspto.gov/</a>



Anthony D Stashick  
Primary Examiner  
Art Unit 3728

ADS  
April 5, 2004